

10 MISC 00023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE APPLICATION OF BANK OF
CYPRUS PUBLIC COMPANY LIMITED

Index No.:

RECEIVED
DEC 30 2010
U.S.D.C. S.D.N.Y.
CLERK'S
APPLICATION FOR AN Y.
ORDER TO TAKE
EVIDENCE PURSUANT TO
28 U.S.C. § 1782

Applicant BANK OF CYPRUS PUBLIC COMPANY LIMITED, a company organized under the laws of the Republic of Cyprus (the "Applicant" or the "Bank") hereby applies to this Court for an order pursuant to 28 U.S.C. § 1782 directing Greenberg Traurig LLP (the "Respondent") to produce documents for use in the civil proceeding pending in Cyprus in the District Court of Nicosia titled *Joseph P. LaSala and Fred S. Zeiman, as co-Trustees of the Trust entitled AremisSoft Corporation Liquidating Trust v. Bank of Cyprus Public Company Ltd.*, Action No. 5467/09 (the "Cyprus Proceeding"). Such applications are routinely made *ex parte*. *In re Supreme Court of Hong Kong*, 138 F.R.D. 27, 32 n.6 (S.D.N.Y. 1991) (citing *In re Tokyo Dist., Tokyo Japan*, 539 F.2d 1216, 1219 (9th Cir. 1976))). The making of such applications *ex parte* is "typically justified by the fact that the parties will be given adequate notice of any discovery taken pursuant to the request and will then have the opportunity to move to quash the discovery or to participate in it." *Hong Kong*, 138 F.R.D. at 32 n.6 (quoting *Tokyo Dist.*, 539 F.2d at 1219)).

In support of this Application, the Applicant has attached hereto and made a part hereof the Certification of John Fellas, dated December 30, 2010 the Memorandum of Law in Support of Application for an Order to Take Evidence Pursuant to 28 U.S.C. § 1782, and any such papers as may be filed with this Court.

WHEREFORE, Applicant respectfully requests that this Court enter an order:

- (i) granting Applicant's application for the taking of evidence from Respondent pursuant to 28 U.S.C. § 1782;
- (ii) authorizing Applicant to issue pursuant to Fed. R. Civ. P. 45:
 - (a) a subpoena in the form attached to the proposed order as Exhibit 1, directing Respondent to produce documents within 30 days following the service of the subpoena;
 - (b) subpoenas for the production of additional documents and the taking of depositions from any person, within the terms of section 1782, who resides or is found in this district whom Applicants may reasonably believe to have information or documents relevant to the Cyprus Proceeding;
- (iii) appointing Hughes Hubbard and Reed LLP to issue, sign and serve such subpoenas pursuant to Fed. R. Civ. P. 45(a)(3) in this matter; and
- (iv) granting such other and further relief as the Court deems appropriate.

New York, New York
December 30, 2010

Respectfully submitted,



HUGHES/HUBBARD & REED LLP

John Fellas

Jennifer Alpern Hecht

One Battery Park Plaza

New York, NY, 10004

(212) 837-6000

Fellas@hugheshubbard.com

Hecht@hugheshubbard.com

*Attorneys for Applicant Bank of Cyprus
Public Company Ltd.*